IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO:L.P.A.No.44 OF 1994
DATE OF DECISION:January 9, 2007

SUKHDEV SINGH

.....APPELLANT

through Mrs. Tanisha Peshwaria, Advocate,
for the appellant.

VERSUS

GURDEV KAUR ETC.

.....RESPONDENTS

through Mr. Ajay Kaushik, Advocate,
for the respondents.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment?**

2. **To be referred to the Reporters or not?**

3. **Whether the judgment should be reported in the Digest?**

VIJENDER JAIN, CHIEF JUSTICE (ORAL)

This Letters Patent Appeal is directed against the judgment of Learned Single Judge, dated 27.01.1993 passed in F.A.O.No.144 of 1992.

Nirmal Singh deceased was employed as a driver on truck No.PCJ 5143. On 28.06.1989, he was driving the truck from Sahnewal to Dehlon. Four kilometers short of Village Sahnewal, Nirmal Singh stopped the truck to tighten the ropes holding the goods being transported. He parked the truck on the extreme left side of the road and switched on the rear lights. Truck No.RNE 5967 owned by the appellant and driven by Rattan Singh struck against the rear side of truck No.PCJ 5143. On account of this impact, Nirmal Singh fell to the ground, received

multiple injuries and expired while being taken to a hospital.

His legal heirs, filed a petition for grant of compensation, before the Motor Accident Claims Tribunal, Ludhiana. The Tribunal held that Truck No. RNE 5967 was being driven in a rash and negligent manner and therefore, proceeded to direct the appellant and his driver to pay a compensation of Rs.2, 88,000/- along with interest at the rate of 12 per cent to the legal heirs of Nirmal Singh deceased.

The aforementioned award was impugned by the appellant, before this Court by way of F.A.O.No.144 of 1992. Vide judgment dated 27.01.193, the appeal was dismissed.

Challenge in the Letters Patent Appeal is to the order passed by Learned Single Judge, dismissing the first appeal filed by the appellant. The grounds of appeal pressed into service, are as follows:

"1. *That the learned Single Judge has failed to appreciate the basic fact that truck No.5967 was not involved in the accident. Story of the claimant is that truck No.5967 struck on the back side of truck No.PCJ 5143 with force, pushed it aside and caused damage on its back side. But surprisingly there is no evidence on file that any portion of truck No. RNE 5967 was also damaged. In fact, there were marks of accident on the truck belonging to the petitioner/applicant. The learned Single Judge has paid no attention to this basic aspect of the case.*

2. *That the medical report also does not corroborate the story of the petitioner. The injuries on the person of the deceased cannot be caused by the accident, as alleged by the claimants.*

3. *That the multiplier of 20 is illegal. The age of deceased was 40 years. The multiplier of 12 would have been more proper.*

We have heard the learned counsel for the parties, perused the paper book and the record.

Grounds No.1 and 2, reproduced herein above, raise pure questions of fact. The adjudication thereof, by the tribunal, were upheld by the learned Single Judge and, therefore, do not merit interference in jurisdiction under Clause X of the Letters Patent Act.

As regards ground No.3, counsel for the appellant contends that the Second Schedule, appended to the Motor Vehicles Act, 1988, mandates that where a deceased is aged 40 years a multiplier of 15 be applied. Nirmal Singh deceased was aged 40 and, therefore, the learned Tribunal erred in applying a multiplier of 20 and the learned Single Judge committed an error of law in failing to reverse the orders passed by the Tribunal.

On the other hand, learned counsel for the respondents/claimants contends that the Second Schedule was incorporated in the Motor Vehicles Act, 1988 by way of Act No.54 of 1994, with effect from 14.11.1994. As the accident, that led to the demise of Nirmal Singh took place on 28.06.1989, the provisions of the Second Schedule, as incorporated in the Motor Vehicles Act, 1988 w.e.f. 14.11.1994 are inapplicable.

We find force in the argument addressed by learned counsel for the respondents. A multiplier of 20, was applied by the Tribunal and upheld by the learned Single Judge, after an appraisal of the evidence on record. The Second Schedule, appended to the Motor Vehicles Act, 1988 was enacted pursuant to Act No.54 of 1994, and was brought on the statute book on 14.11.1994. The accident in the present case admittedly occurred on 28.06.1989. The Amending Act 54 of 1994 does not apply retrospectively and is, therefore, inapplicable to the present case. Consequently, the arguments addressed by the learned counsel for the

appellant cannot be accepted.

We do not find any infirmity in the judgment of the learned Single Judge. Consequently, the present appeal is dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

January 9, 2007
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(RAJIVE BHALLA)
JUDGE